file:///C|/Documents%20and%20Settings/HP_Owner/Desktop/Joint%20...itizen%20Financial%20&%20DTCs%20Joint%20Defense%20Agreement.htm

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From: DataTreasury [datatreasury@cooperiplaw.com]
Sent: Thursday, May 03, 2007 4:48 PM
To: akbruster@nixlawfirm.com; benking@nixlawfirm.com; ccp@nixlawfirm.com; edhohn@nixlawfirm.com; Krupp@provostumphrey.com; minren@nixlawfirm.com; moniking@nixlawfirm.com; njroach@nixlawfirm.com; bpaddock@nixlawfirm.com; stephaniemcknight@nixlawfirm.com; dan@cooperiplaw.com; dpirkey@nixlawfirm.com; nicolereed@nixlawfirm.com; edchin@nixlawfirm.com; kellihearne@nixlawfirm.com; rodcooper@nixlawfirm.com; pamridgell@nixlawfirm.com
Subject: FW: Joint Defense Agreement

From: Anthony Bruster [mailto:akbruster@nixlawfirm.com]
Sent: Thursday, May 03, 2007 12:23 PM
To: 'ClaudeEWelch'
Subject: RE: Joint Defense Agreement

Thanks Claude. We will file the Motion. Have a good day.
AKB

From: ClaudeEWelch [mailto:cewelch@consolidated.net]
Sent: Thursday, May 03, 2007 12:12 PM
To: akbruster@nixlawfirm.com
Subject: Re: Joint Defense Agreement

Hi Anthony:
When I returned to my office I saw that Jeff Standley had sent you a letter declining to provide the agreement. So, I did not give him the call I had promised earlier.

Claude

> ----- Original Message -----
> **From:** Anthony Bruster
> **To:** 'ClaudeEWelch'
> **Sent:** Wednesday, May 02, 2007 9:40 PM
> **Subject:** FW: Joint Defense Agreement
>
> Claude – I never heard anything further from you or Jeff on this matter, despite our request last week to hear something today. If you've tried to call in Texarkana, I'm out of the office and will be the rest of the week. I just wanted to check back with you before we file our motion to compel, despite our past telephone conversation and emails on this issue – is CFG planning to produce the agreement or do we need to file a Motion? Please let me know asap.
> Thanks,
> AKB
>
> **From:** Anthony Bruster [mailto:akbruster@nixlawfirm.com]

file:///C|/Documents%20and%20Settings/HP_Owner/Desktop/Joint%20...itizen%20Financial%20&%20DTCs%20Joint%20Defense%20Agreement.htm

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Sent: Wednesday, April 25, 2007 3:12 AM
To: 'ClaudeEWelch'
Cc: 'Jeff Standley'; 'Mike Speed'; 'Lussier, Hollie'; datatreasury@cooperiplaw.com
Subject: Joint Defense Agreement

Claude / Jeff:

I write in regard to Citizens Financial Group's (CFG's) responses to DataTreasury's First Set of Requests for Production of documents. On February 1, 2007, CFG provided objections and responses to those first RFPs. Subsequently, on March 17, 2007, CFG produced its documents in response to the RFPs.

In the Responses, CFG asserted the Joint Defense Privilege in response to nearly all of the Requests. Some of those Requests (see, e.g., Requests 28 and 30) request production of communications with other entities, including other Defendants, in this litigation. CFG asserted the Joint Defense Privilege in response to those Requests, and CFG's March 17 document production did not contain any such communications.

Right now, it is impossible for DataTreasury to ascertain whether the assertion of the Joint Defense Privilege has been properly made. As you are aware, in the Eastern District of Texas, the proper procedure to avoid motion practice on this issue is for CFG to produce the Joint Defense Agreement that supports CFG's claim of Joint Defense Privilege for DataTreasury to review to determine if the privilege has been properly asserted. *See Power Mosfet Tech. v. Siemens AG*, 206 F.R.D. 422 at Footnote 12 (E.D. Tex. 2000). CFG has yet to produce the Joint Defense Agreement, even though it is responsive to the Requests above.

Please produce the Joint Defense Agreement by Wednesday, May 2, 2007. If CFG refuses to do so, DataTreasury will file a Motion to Compel. Claude and I discussed this yesterday, and DTC is more than willing to satisfy whatever meet and confer you wish to do on this issue. Please contact me to discuss.

We look forward to receiving this production and avoid burdening the Court with this Motion practice.

Thanks,
AKB

From: ClaudeEWelch [mailto:cewelch@consolidated.net]
Sent: Tuesday, April 24, 2007 1:11 PM
To: akbruster@nixlawfirm.com
Cc: 'Jeff Standley'; 'Mike Speed'; 'Lussier, Hollie'
Subject: Re: Data Treasury v. CFG (depo of Kolarik)

Anthony:
Thanks for the confirmation.
Claude

----- Original Message -----

file:///C|/Documents%20and%20Settings/HP_Owner/Desktop/Joint%20...itizen%20Financial%20&%20DTCs%20Joint%20Defense%20Agreement.htm

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From: Anthony Bruster
To: 'ClaudeEWelch'
Cc: 'Jeff Standley' ; 'Mike Speed' ; 'Lussier, Hollie'
Sent: Tuesday, April 24, 2007 11:47 AM
Subject: RE: Data Treasury v. CFG (depo of Kolarik)

Claude
No need to file a formal objection. This email will confirm our conversation yesterday; we'll pull it down voluntarily.
AKB

From: ClaudeEWelch [mailto:cewelch@consolidated.net]
Sent: Monday, April 23, 2007 3:48 PM
To: akbruster@nixlawfirm.com
Cc: Jeff Standley; Mike Speed; Lussier, Hollie
Subject: Data Treasury v. CFG (depo of Kolarik)

Hi Anthony:
Thanks for your earlier email. Were you actually working at 2:16 AM today?
I tried calling your office but only your voice mail answered. Thus, this email.
CFG has decided to object to your deposition notice to Jeff Kolarik. The basis for their objection is that Kolarik is not a CFG employee, and that CFG is the only named party in the suit. Therefore, CFG has no power to compel him to appear and his employer has decided not to put him up voluntarily. When you and I last discussed this issue, I recollect that you confirmed that Mr. Fitzgerald stated in his deposition that Jeff Kolarik was NOT a CFG employee. That being the case, will it be necessary for CFG to file a formal objection to the deposition notice for May 1st? Or will you pull it down voluntarily and seek Mr. Kolarik's deposition in the customary manner for non-parties? Please advise. Thank you for your patience in this matter.

Claude E Welch

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